

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

ALEJANDRO DAVID MENDEZ GONZALEZ

Plaintiff/Petitioner,

Case No.:

v.

MARKWAYNE MULLIN as Secretary for
The Department of Homeland
Security (DHS);

TODD M. LYONS as Acting Director, Miami
Field Office, Enforcement and
Removal Operations (ERO),
Department of Homeland Security;

TODD BLANCHE as
United States Attorney General;

US ATTORNEY'S OFFICE,
Middle District of Florida; and,

WARDEN,
of Baker Correctional Institute in
Sanderson, Florida,

Respondents/Defendants.

VERIFIED PETITION FOR A WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241 AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF

COMES NOW the Plaintiff/Petitioner, ALEJANDRO DAVID MENDEZ GONZALEZ, by and through undersigned counsel, respectfully, and hereby brings this Petition for a Writ of Habeas Corpus.

IN SUPPORT OF THIS PETITION, Plaintiff/Petitioner alleges the following:

INTRODUCTION

1. The Plaintiff/Petitioner respectfully petitions this Court for a writ of habeas corpus to remedy his unlawful detention by the U.S. Department of Homeland Security.
2. The Plaintiff/Petitioner is a citizen and national of Venezuela. **Exhibit No. 1**
3. The Plaintiff/Petitioner entered the United States in 2024 with a Humanitarian Parole.
See Exhibit No. 2
4. The Plaintiff/Petitioner is the derivative beneficiary of an application for asylum in process, filed through his mother in April 2025. *See Exhibit No. 3*
5. The Plaintiff/Petitioner possesses a valid social security number and employment authorization. *See Exhibit No. 4*
6. The Plaintiff/Petitioner was arrested in Davenport, Florida on the allegations of committing the offense of riding as a passenger in a race competition and causing minor to become delinquent on April 12, 2026, by a law enforcement officer from the Polk County Sheriff's Office.
7. The State filed a No Bill for the charges on April 23rd, 2026. *See Exhibit No. 5*
8. The Plaintiff/Petitioner is a Senior at the  School set to graduate on or around May 2026. *See Exhibit No. 6*
9. Despite not being subject to mandatory detention, the Plaintiff/Petitioner is being detained without bond at the Baker County Facility in Macclenny, Florida, under a recent policy that categorically denies bond hearings to certain noncitizens who are applicants for admission. The policy was recently declared unlawful by a federal district court in a

nationwide class action judgment. *See Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025).

10. The Plaintiff/Petitioner is a member of the eligible class certified in *Maldonado Bautista*. As such, the Respondents/Defendants must afford him a bond hearing pursuant to 8 U.S.C. § 1226(a).
11. Relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Executive Officer for Immigration Review (“EOIR”) has been denying motions for bond to immigrants who entered the U.S. without inspection.
12. The Plaintiff/Petitioner challenges his detention as a violation of the INA, 8 U.S.C. §§ 1101 *et seq.*, and regulations, thereunder, Administrative Procedure Act (“APA”), and the Due Process Clause of the Fifth Amendment.
13. The Petitioner/Plaintiff/Petitioner respectfully requests *inter alia* that this Honorable Court grant him a Writ of Habeas Corpus and order the Defendants/Respondents to release him from custody, and order other relief as described herein.

JURISDICTION

14. This action arises under the United States Constitution and the INA. This Honorable Court has jurisdiction over this complaint pursuant to: 28 U.S.C. § 1651 (the All Writs Act); 28 U.S.C. § 2241 (power to grant Writ of Habeas Corpus); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1346 (United States Defendant); 28 U.S.C. § 1361 (jurisdiction to compel an officer to perform a duty owed to Plaintiff/Petitioner, the Mandamus Act); 5 U.S.C. § 555(b), 5 U.S.C. § 702 (APA waiver of sovereign immunity), 5 U.S.C. § 704 (no other adequate remedy) and 5 U.S.C. § 706 (compel agency action unlawfully withheld or unreasonably delayed), APA. The

Plaintiff/Petitioner's custody is in violation of the Constitution and laws of the United States.

VENUE

15. Venue is proper in this Middle District of Florida under 28 U.S.C. § 1391(b), 28 U.S.C. § 1391(e)(1) (United States defendant resides in this district), 28 U.S.C. § 1391(e)(2) (cause of action arose in this district), and 28 U.S.C. § 1391(e)(4) (Plaintiff/Petitioner resides in this district and no real property is at issue).
16. The Plaintiff/Petitioner is in the Defendants/Respondents' physical custody within this district at the Baker County Facility in Macclenny, Florida, under the direct control of the Defendants/Respondents and their agents.

PARTIES

17. Plaintiff/Petitioner ALEJANDRO DAVID MENDEZ GONZALEZ is a citizen and national of Venezuela in the Defendants/Respondents' physical custody. The Defendants/Respondents have assigned him File No. A .
18. The Plaintiff/Petitioner brings a suit against **MARKWAYNE MULLIN** in his official capacity as Secretary for the Department of Homeland Security (DHS). In this official capacity, he is a legal custodian of the Plaintiff/Petitioner.
19. The Plaintiff/Petitioner brings a suit against **TODD M. LYONS** in his official capacity as Acting Director, Miami Field Office, Enforcement and Removal Operations (ERO), Department of Homeland Security. In this official capacity, he is a legal custodian of the Plaintiff/Petitioner.

20. The Plaintiff/Petitioner brings a suit against **TODD BLANCHE** in his official capacity as the acting United States Attorney General. In this official capacity, he is a legal custodian of the Plaintiff/Petitioner.
21. The Plaintiff/Petitioner brings a suit against **UNITED STATES ATTORNEY'S OFFICE** in the Middle District of Florida as a defendant in this action solely in its official capacity as the legal representative of the United States government.
22. The Plaintiff/Petitioner brings a suit against **WARDEN** in his official capacity as Warden of Baker County Facility in Macclennys, Florida. In this official capacity, he is a legal custodian of the Plaintiff/Petitioner.

CUSTODY

23. The Plaintiff/Petitioner is in the Defendants/Respondents' physical custody within this district at the Baker Correctional Institute in Sanderson, Florida, an immigration detention center under the direct control of the Defendants/Respondents and their agents.

LEGAL BACKGROUND

A. The Exhaustion of Administrative Remedies would be futile

24. The Plaintiff/Petitioner is excused from exhausting administrative remedies because exhaustion would be futile and would cause irreparable harm.
25. The Board of Immigration Appeals ("BIA") has issued a binding precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), holding that individuals who entered without inspection are "applicants for admission" subject to mandatory detention under § 1225(b)(2).

26. An Immigration Judge is bound by *Yajure Hurtado* and would be compelled to deny jurisdiction over a bond request. Such continued detention without a hearing constitutes irreparable harm, involving the deprivation of fundamental liberty interests.

**B. District Courts throughout the US have rejected
Defendants/Respondents' policy**

27. The government's sweeping reinterpretation – treating long-present noncitizens who entered without inspection (EWI) as mandatory detainees – has been widely condemned as unlawful under the INA and contrary to due process. Since the policy's introduction, “over 220 judges in hundreds of cases across the country have declared the government's new detention policy to be contrary to immigration law and the Constitution”.¹ The “vast majority of district court judges” to consider this issue have “rejected the government's position,” instead holding that individuals who were not apprehended at the time of entry are detained under 8 U.S.C. § 1226(a) (the general arrest-and-detention authority for those already in the country) and thus are eligible for a bond hearing.² In other words, numerous courts have ruled that DHS's attempt to collapse all EWI cases into the “applicant for admission” category of §1225 is inconsistent with the statutory text and framework.

**C. The Plaintiff/Petitioner is a member of the *Maldonado Bautista* Class
and is entitled to a bond hearing**

¹ Cf. American Civil Liberties Union, *Federal Court Affirms Nationwide Class Has Right to Bond Hearings*, December 22, 2025. Available at: <https://www.aclu.org/press-releases/federal-court-affirms-nationwide-class-has-right-to-bond-hearings>.

² See American Civil Liberties Union and the Northwest Immigrant Rights Project, *Seeking Bond Hearings for Maldonado Bautista Class Members—Those Who Entered Without Inspection and Are Subject to Yajure-Hurtado*, December 3, 2025. Available at: <https://www.nwirp.org/uploads/2025/Maldonado%20Bautista%20Practice%20Advisory%2012%203%202025.pdf>

28. On December 18, 2025, the U.S. District Court for the Central District of California entered a Final Judgment in *Maldonado Bautista v. Santacruz*.

29. The court certified a nationwide "Bond Eligible Class" defined as:

Bond Eligible Class: All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

The U.S. District Court for the Central District of California vacated the July 8, 2025, DHS policy "Interim Guidance Regarding Detention Authority for Applicants for Admission" as unlawful.

30. The U.S. District Court for the Central District of California declared that members of the Bond Eligible Class are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under § 1225(b)(2). The Court further declared that class members are entitled to custody redetermination hearings before an Immigration Judge.
31. The Plaintiff/Petitioner meets every criterion of the Bond Eligible Class: he entered with a humanitarian parole, which is not considered a formal "admission" or "inspected entry" under immigration law, has resided in the United States for more than two years, and is not subject to mandatory detention under § 1225(b)(2) as an arriving alien subject to expedited removal. Under its plain language, the expedited removal statute does not apply. *See* 8 U.S.C. § 1225(b)(1)(A)(i), (iii) (applying expedited removal only to an individual who "is arriving in the United States" who "unless
- [thehttps://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=8-USC-92903111-1485256781&term_occur=999&term_src=alien](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=8-USC-92903111-1485256781&term_occur=999&term_src=alien) indicates

either an intention to apply for asylum under section 1158 of this title or a fear of persecution or “has not been admitted or paroled into the United States”).

32. Despite the clear findings and declaratory relief issued on behalf of the class in *Maldonado Bautista*, the DHS and the EOIR have not voluntarily complied nationwide.

D. Due Process, Statutory, and Regulatory Rights

33. “Freedom from imprisonment lies at the heart of the liberty protected by the Due Process Clause.” *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
34. Immigration detention must “bear a reasonable relation to the purpose for which the individual was committed.” *See Demore v. Kim*, 538 U.S. 510, 527 (2003).
35. Moreover, under the Fifth Amendment of the United States Constitution, DHS and the EOIR may not deprive a noncitizen of notice and an opportunity to be heard. *See Mathews v. Elridge*, 424 U.S. 319 (1976).

E. The APA

36. Federal Agencies must comply with the APA when crafting and enforcing decisions, regulations, and legislative rules. 5 U.S.C. § 553.
37. Courts have authority to review and invalidate final agency actions that are not in accordance with the law, exceed agency authority, lack substantial evidence, or are arbitrary and capricious. 5 U.S.C. § 706.
38. Under the APA, this Honorable Court has the authority to compel agency action that has been unreasonably delayed. 5 U.S.C. § 706(1).
39. An agency must “conclude a matter presented to it [...] within a reasonable time”. 5 U.S.C. § 555(b).

40. "A person suffering legal wrong because of agency action [...] is entitled to judicial review thereof." 5 U.S.C. § 702.

STATEMENT OF THE FACTS

41. The Plaintiff/Petitioner is a citizen and national of Venezuela who was born on  in Capital District, Venezuela. *See Exhibit No. 1* (Passport).
42. The Plaintiff/Petitioner entered the United States in 2024 with a Humanitarian Parole. *See Exhibit No. 2*
43. The Plaintiff/Petitioner is the derivative beneficiary of an application for asylum in process, filed through his mother in April 2025. *See Exhibit No. 3*
44. The Plaintiff/Petitioner was arrested following an investigation into street racing activity in Davenport, Florida. He was charged with Riding as a Passenger in a Race Competition and Contributing to the Delinquency of a Minor, with charges enhanced due to his alleged unlawful presence in the United States, making them both third-degree felonies.
45. The State filed a No Bill for the charges on April 23rd, 2026. *See Exhibit No. 5*
46. It is the Plaintiff/Petitioner's understanding that the Orlando Immigration Court, relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), as well as *Matter of E-L-H-*, 23 I&N Dec. 814 (BIA 2005), is not affording bond hearings to similarly situated persons to review ICE's custody decision or set a bond.

CAUSES OF ACTION

COUNT I

DEFENDANTS/RESPONDENTS HAVE VIOLATED THE INA, AND THE REGULATIONS

47. Petitioner incorporates paragraphs 1 through 40.

48. The plain text of 8 U.S.C. § 1225(b)(2) applies to aliens “seeking admission.” The Supreme Court has recognized that § 1225 applies to those at the border, while § 1226 applies to those already present in the United States. *Jennings v. Rodriguez*, 583 U.S. 281 (2018).
49. Plaintiff/Petitioner, having resided in the U.S. for almost 2 years, is not “seeking admission” in any temporal sense.
50. As established by the binding judgment in *Maldonado Bautista*, Petitioner's detention is governed by 8 U.S.C. § 1226(a). Under this statute, detention is discretionary, and Petitioner is entitled to a bond hearing.
51. Defendants/Respondents' detention of Petitioner under § 1225(b)(2) is *ultra vires* to the INA and unlawful.

COUNT II

DEFENDANTS/RESPONDENTS HAVE VIOLATED THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

52. Petitioner incorporates paragraphs 1 through 51.
53. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. Freedom from physical restraint is a fundamental liberty interest.
54. Due process requires that civil detention be accompanied by adequate procedural safeguards, including an individualized hearing before a neutral decisionmaker to determine if detention is necessary to prevent flight or danger. *Zadvydas v. Davis*, 533 U.S. 678 (2001).
55. By classifying Plaintiff/Petitioner for mandatory detention without a hearing, Defendants/Respondents have deprived him of his liberty without due process.

56. The government cannot justify this deprivation. There is no compelling interest in detaining a long-term resident with no serious criminal history without even considering his release, particularly when less restrictive alternatives exist.

COUNT III

DEFENDANTS/RESPONDENTS HAVE VIOLATED THE APA

57. Petitioner incorporates paragraphs 1 through 56.
58. The APA prohibits agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).
59. Defendants/Respondents' continued application and reliance on policy that was vacated by the U.S. District Court for the Central District of California in *Maldonado Bautista* is unlawful.
60. Defendants/Respondents' continued application and reliance on *Matter of Yajure Hurtado* (which is based on the policy vacated by the U.S. District Court for the Central District of California in *Maldonado Bautista*) is arbitrary and capricious because it contradicts the plain language of the INA and federal court precedent in this District. *See Hernandez Lopez v. Hardin*, 2:25-cv-00830, (M.D. Fla.).

RELIEF REQUESTED

WHEREFORE, Plaintiff/Petitioner prays that this Honorable Court grant the following relief:

- A. Exercise jurisdiction over this action;
- B. Declare that Petitioner is a member of the *Maldonado Bautista* Bond Eligible Class;
- C. Declare that the Petitioner is detained under 8 U.S.C. § 1226(a) and is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2);

- D. Issue a Writ of Habeas Corpus requiring the Defendants/Respondents to immediately schedule an individualized bond hearing for Petitioner before an Immigration Judge within seven (7) days, and at said hearing, require the government to bear the burden of proving by clear and convincing evidence that Petitioner presents a flight risk or danger to the community that no condition of release can mitigate;
- E. Grant temporary and permanent injunctive relief requiring the Defendants/Respondents to release the Plaintiff/Petitioner from custody;
- F. Enjoin the Defendants/Respondents from moving or transferring the Plaintiff/Petitioner outside of the jurisdiction of this Court;
- G. Order the Plaintiff/Petitioner's immediate release if the Respondents/Defendant fail to provide a constitutionally adequate bond hearing within the time prescribed by the Court;
- H. Declare that the continued detention of the Plaintiff/Petitioner without access to bond hearing violates Due Process Clause of the Fifth Amendment, the INA, the APA, and regulations;
- I. Award the Plaintiff/Petitioner reasonable costs and attorney's fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412;
- J. Grant such other relief as the Court deems just and proper.

/s/ Phillip Arroyo

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Counsel for Plaintiff/Petitioner

VERIFICATION

Pursuant to 28 U.S.C. § 2242 and 28 U.S.C. § 1746, the undersigned counsel certify under penalty of perjury that we represent the Petitioner in his removal proceedings and make this verification on his behalf; that we have discussed the facts and allegations within this Petition with the Petitioner; and that based upon these discussions and a review of the underlying records, the facts set forth in the foregoing Petition are true and accurate to the best of our knowledge, information, and belief, and the attachments thereto are true and correct copies of the originals.

/s/ Phillip Arroyo

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Counsel for Plaintiff/Petitioner

APPENDIX: LIST OF EXHIBITS

- 1. Exhibit 1: Venezuelan Passport**
- 2. Exhibit 2: Parole Document and I-94**
- 3. Exhibit 3: I-589 Biometrics Notice**
- 4. Exhibit 4: Employment Authorization and Social Security Card**

5. Exhibit 5: No Bill Issued by the Assistant State Attorney in Polk County, Florida

6. Exhibit 5: Polk County School Transcript and Statement from Petitioner's School Counselor